IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Criminal Misc. Application No. 710 of 2006

Manveer S/o Mukut Singh
R/o Samauddin Pur (Samadhipur)
P.S. Dadri, District Gaziabad ..... Applicant

Vs.

1. State of Uttaranchal
2. Session Judge, Pauri
District Pauri Garhwal .... Respondents

Sri Sanjeev Singh, learned counsel for the applicant
Learned A.G.A. for the State

Hon'ble B.C. Kandpal, J.

By way of this petition under Section 482 Cr.P.C., the petitioner – Manveer has challenged the order-dated 26.7.2006 which is contained as annexure No. 3 to the petition.

2. Heard Sri Sanjeev Singh, learned counsel for the petitioner, learned A.G.A. for the State and perused the record.

3. Brief facts of the case are that the First Information Report was lodged under Section 395, 397, 412 I.P.C. After committal of the case, the charges were framed against the petitioner and others. The petitioner/applicant along with other has been facing the trial before the court of Sessions Judge, Pauri and the trial is numbered as S.T. No. 68 of 2006 State Vs. Suresh & others. It further reveals from the record that 26.07.2006 was fixed for prosecution evidence. The applicant could not appear before the court concerned on the date fixed i.e. 26.07.2006 and the learned trial court straightway cancelled the bail of the applicant and issued non-bailable warrrant against the petitioner as well as process under Section 82/83 Cr.P.C.

4. Feeling aggrieved by the aforesaid impugned order passed by the Sessions Judge, Pauri, this petition has been filed by the petitioner before this Court.

5. Having considered the arguments advanced by the learned counsel for the parties, I am of the view that the Sessions Judge has passed the impugned order in a very hasty and arbitrary manner. Mere absence of the applicant on one date does not mean that the accused is either absconding or has misused the liberty granted to him by way of bail. There is a setteled principle of law for cancellation of the bail. The accused/applicant is not covered under any of the conditions envisaged for cancellation of the bail. The cancellation of the bail of the petitioner straightway in the instant case is against the settled principle of law. The cancellation of bail generally should not be directed in a routine manner. The Sessions Judge should have passed an order by issuing non bailable warrant but he should have not straightway cancelled the bail.

6. Keeping in view that there might be some unavoidable circumstance which prevented the accused/applicant from appearing before the court concerned on the date fixed, the impugned order passed by the Sessions Judge straightway cancelling the bail of the applicant is thus not sustainable in the eye of law. The order sheet of the case of Session Trial annexed with the petition shows that the petitioner is not a habitual absconder. I therefore, quash the impugned order dated 26.07.2006 passed by the Sessions Judge cancelling the bail of the applicant straightway.

7. The petition is thus allowed. The impugned order dated 26.07.2006 passed by the Sessions Judge, Pauri cancelling the bail of the applicant is hereby quashed. Learned trial Judge is directed to afford an

opportunity to the applicant to place his submission before the court showing the reason of his absence on the date fixed and therefore take necessary action in accordance with the law.

9. With these observations, the petition is finally disposed of.

(B.C. Kandpal, J.)

30.08.2006
ASWAl